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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. R-2112

13 JANINE D. GRIFFIN
1213 Holly Avenue
14 Imperial Beach, CA 91932

A C C U S A T I O N

15 Respiratory Care Practitioner
License No. 20644

16 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California,
22 Department of Consumer Affairs.

23 2. On or about February 1, 1999, the Respiratory Care Board issued
24 Respiratory Care Practitioner License No. 20644 to JANINE D. GRIFFIN (Respondent). The
25 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on August 31, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states, in pertinent part: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3750 of the Code states, in pertinent part:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

". . . .

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

". . . ."

7. Section 3750.5 of the Code states, in pertinent part:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety

1 Code, or any dangerous drug as defined in Article 7 (commencing with section
2 4210) of Chapter 9 of this code.

3 "(b) Used any controlled substance as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any
5 dangerous drug as defined in Article 7 (commencing with section 4210) of
6 Chapter 9 of this code.

7 ". . . ."

8 8. California Code of Regulations, title 16, section 1399.370, states, in
9 pertinent part:

10 "For the purposes of denial, suspension, or revocation of a license, a crime or act
11 shall be considered to be substantially related to the qualifications, functions or duties of
12 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
13 perform the functions authorized by his or her license or in a manner inconsistent with the
14 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
15 those involving the following:

16 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
17 abetting the violation of or conspiring to violate any provision or term of the Act."

18 COST RECOVERY

19 9. Section 3753.5, subdivision (a) of the Code states:

20 "In any order issued in resolution of a disciplinary proceeding before the board,
21 the board or the administrative law judge may direct any practitioner or applicant found to have
22 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
23 investigation and prosecution of the case."

24 10. Section 3753.7 of the Code states:

25 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
26 include attorney general or other prosecuting attorney fees, expert witness fees, and other
27 administrative, filing, and service fees."

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1 11. Section 3753.1 of the Code states:

2 "(a) An administrative disciplinary decision imposing terms of probation may
3 include, among other things, a requirement that the licensee-probationer pay the monetary costs
4 associated with monitoring the probation. "

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Obtained or Possessed a Controlled Substance)**

7 12. Respondent is subject to disciplinary action under sections 3750,
8 subdivision (g), and 3750.5, subdivision (a), in that she obtained or possessed a controlled
9 substance, to wit: cocaine. The circumstances are as follows:

10 A. On or about April 26, 2007, Respondent applied for a
11 respiratory therapist position at Maxim Healthcare Services. As part of the pre-
12 employment process, Respondent submitted to a urine collection for a drug
13 screen. Respondent's drug screen tested positive for cocaine and the pre-
14 employment process was suspended.

15 B. In Respondent's written statement to the Board, she
16 admitted to the positive test results for cocaine.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Use of a Controlled Substance)**

19 13. Respondent is further subject to disciplinary action under section 3750,
20 subdivision (g) and 3750.5, subdivision (b), in that she used a controlled substance, to wit:
21 cocaine, as more particularly alleged in paragraph 12, above, which is hereby incorporated by
22 reference and realleged as if fully set forth herein.

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1. Revoking or suspending Respiratory Care Practitioner License No. 20644,
issued to JANINE D. GRIFFIN;

3. Taking such other and further action as deemed necessary and proper.

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